IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.1547/07

Prakash @ Parsa & Ors. **Versus** State & Anr.

DATE OF ORDER :: 11/12/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Laxmikant Shandilya for Mr. Biri Singh, for petitioners
Mr. Arun Sharma, Public Prosecutor for State
Mr. Rajesh Choudhary, for respondent

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Instant petition has been filed for quashing of criminal proceedings and trial which the petitioner is facing for offence u/ss.419, 420, 467, 468, 471, 474 & 120B IPC.

Pending trial, the accused-petitioner and complainant belong to same village and are of same community and are distant relation also. Pending trial, parties amicably entered into compromise. Learned trial Judge after being satisfied about contents of compromise arrived at between the parties, compounded the offences so far as Sections 419 & 420 IPC are concerned, but to continue face trial for further offences referred to supra. For quashing of criminal proceedings, the accused-petitioner approached this court. There cannot be dispute that offences u/ss.474, 471, 467 & 468 IPC are not compoundable, but it has been observed by the apex court that if compromise has been arrived at between the parties and which otherwise does not affect the society, this court is empowered to

quash the criminal proceedings under its inherent jurisdiction available under Section 482 Cr.P.C. The Co-ordinate Bench of this court in **Majlis & 4 Ors. Vs. State of Rajasthan [2007 (1) Cr.L.R. (Raj.)-345]** has examined in detail in regard to such offences which are not compoundable and where parties arrived to a compromise, to what extent in exercise of power u/s.482 of the Code the criminal proceedings can be quashed.

In case criminal proceedings are not set aside on the basis of compromise which has been arrived at between the parties, possibility cannot be ruled out that complainant and his witnesses will be forced to change their stand before trial court and turn hostile. It will be, thus, appropriate to set aside the criminal proceedings, if it has been arrived at on the basis of compromise. However, it is made clear that each case has to be examined independently and it cannot made a rule as such.

Notwithstanding contained u/s.320(9) of the Code inherent power u/s.482 Cr.P.C. can be exercised for quashing of criminal proceedings on the basis of compromise arrived at between the parties.

In the instant case the dispute relates to agricultural land and both belong to same community and are distant relation and compromise has been arrived at between the parties. It is true that it is not compoundable, but if accused-

petitioner is allowed to face trial, no fruitful purpose is going to be served.

This court, therefore, considers it appropriate to quash the criminal proceedings which are pending against accused-petitioner in view of amicable settlement/compromise arrived at between the parties.

Consequently, the misc. petition stands allowed and the criminal proceedings, which are pending against accused-petitioner in Case No.71/06, are hereby quashed and set aside.

[AJAY RASTOGI],J.